

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
DF-46 (REV 08/17)

Fiscal Year 2019-20	Business Unit 0250	Department Judicial Branch	Priority No. 016
Budget Request Name 0250-116-BCP-2018-GB		Program 0150-SUPPORT FOR OPERATION OF TRIAL COURTS	Subprogram 0150010-SUPPORT FOR OPERATION OF TRIAL COURTS

Budget Request Description
Chapter 993, Statutes of 2018 (AB 1793, Bonta) – Cannabis Convictions: Resentencing

Budget Request Summary

The Judicial Council requests an augmentation of \$13.901 million General Fund in 2019-20 and \$2.929 million in 2020-21 to support costs associated with increased workload for the trial courts as a result of the enactment of Chapter 993, Statutes of 2018 (AB 1793). This legislation requires sentence modification of past cannabis conviction cases pursuant to the current law, The Control, Regulate, and Tax Adult Use of Marijuana Act.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

Project No. Project Approval Document: Approval Date:

If proposal affects another department, does other department concur with proposal? ☐ Yes ☐ No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By A. Guzman/M. Neuberger	Date 12/27/2018	Reviewed By Z. Theodorovic/C. Jasperson	Date 12/27/2018
Chief Administrative Officer J. Wordlaw	Date	Administrative Director M. Hoshino	Date

Department of Finance Use Only

Additional Review: ☐ Capital Outlay ☐ ITCU ☐ FSCU ☐ OSAE ☐ CALSTARS ☐ Dept. of Technology

PPBA	Original Signed By Emma Jungwirth	Date submitted to the Legislature 1/10/19
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Analysis of Problem

A. Budget Request Summary

The Judicial Council requests an augmentation of \$13.901 million General Fund in 2019-20 and \$2.929 million in 2020-21 to support costs associated with increased workload for the trial courts as a result of the enactment of Chapter 993, Statutes of 2018 (AB 1793) which requires sentence modification of past cannabis conviction cases pursuant to current law, The Control, Regulate, and Tax Adult Use of Marijuana Act.

B. Background/History

The Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA), or Proposition 64, was enacted by voters through a statewide general election on November 9, 2016. The AUMA allows for regulation of the cultivation, distribution, and use of cannabis for nonmedical purposes by individuals 21 year of age and older. Further, the AUMA permitted individuals convicted of designated marijuana offenses to obtain a reduced conviction or sentence if the crime was for conduct now legal under the AUMA.

AB 1793 requires the Department of Justice (DOJ), by July 1, 2019, to identify past cannabis conviction cases that are potentially eligible for recall or dismissal of sentence, sealing, or re-designation pursuant to current law. The bill requires the department to notify prosecutors of cases in their jurisdiction that are eligible for sentence modifications. Prosecutors are required to review all identified cases to determine if they will object to sentence modifications in these cases or allow them to proceed. Once prosecutors complete their review of the case, they are required to file a petition for resentencing with the court and notify public defenders of cases whether they will challenge the sentence modification on or before July 1, 2020. Additionally, prosecutors are required to notify the courts of the cases where they will not be challenging sentence modifications. Finally, the law requires courts to automatically modify sentences of identified cases if there is no challenge by July 1, 2020 and to notify the DOJ of the sentence modification unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

C. State Level Considerations

This proposal seeks the necessary additional funding for the branch to comply with the provisions of AB 1793 and is consistent with the following Judicial Branch Strategic Goals:

- Goal I—Access, Fairness, and Diversity
- Goal VII—Adequate, Stable, and Predictable Funding for a Fully Functioning Branch

D. Justification

In identifying the fiscal impact of AB 1793, a survey of a sample of trial courts was completed to develop a workload time range for cannabis sentence modification cases. The courts noted that several factors influence their workload estimates, such as capabilities of their case management systems, court staffing levels and potential objections from the prosecution. In addition, the court indicated that cases where prosecutor's object to sentence modifications carry the highest workload costs as these will require additional judicial review. However, it is difficult to produce an accurate estimate of the frequency with which prosecutor's will object to sentence modifications given the number of variables which could influence their decision. Based on these uncertainties, a conservative assumption was made that prosecutors would not object to sentence modifications in 95% of the eligible cannabis cases and utilized workload estimates provided by the courts to develop the cost to comply with the provisions of AB 1793.

The DOJ estimates there are approximately 220,000 cannabis cases statewide that are eligible for sentence modifications under this law. Based on DOJ's estimated case count, and assuming that prosecutors will not challenge resentencing in approximately 95% of these 220,000, it is assumed that there will be 209,000. Courts indicated that cases where prosecutors do not challenge resentencing will be simpler to handle with an average total processing time of 20 minutes. This time is made up of 10 minutes for clerks to accept, process and prepare the resentencing petition for review by a judicial

Analysis of Problem

officer. Courts indicated a judge would spend an average of 10 minutes reviewing the petition, any relevant information pertaining to the individual that may be in the courts record as well as potential communication with prosecutors. Based on the current branch cost model, clerk costs average \$2.70 per minute while a judges non-hearing costs average \$4.50 per minute. This leads to a cost of \$27 ($=\2.70×10 minutes) for clerk workload and \$45 ($=\4.50×10 minutes) for judicial officers, totaling \$72 per case for unchallenged petitions. Based on these workload assumptions, we estimate that processing the 209,000 unchallenged petitions will cost \$15.048 million over two fiscal years.

$$209,000 \text{ Simple Cases} \quad \times \quad \$72 \text{ Per Case} \quad = \$15,048,000$$

Additionally, we assume that prosecutors will object to resentencing in approximately 5% of these 220,000 cases, which translates to 11,000 petitions. Courts indicated that cases where resentencing is objected to will be more complex to address with an average total processing time of 40 minutes. This time is made up of 10 minutes for clerks to accept, process and prepare the objected resentencing petition for review by a judicial officer. Courts indicated a judge would spend an average of 30 minutes reviewing the petition, assessing the merits of the prosecutor's objection(s) and discussing the case with the prosecutor and public defender. We did not assume a court hearing would occur in these cases as statute only permits a hearing for a resentencing petition if requested by the offender. Based on the current branch cost model, clerk costs average \$2.70 per minute while a judges non-hearing costs average \$4.50 per minute. This leads to a cost of \$27 ($=\2.70×10 minutes) for clerk workload and \$135 ($=\4.50×30 minutes) for judicial officers, totaling \$162 per case for objected petitions. Based on these workload assumptions, we estimate that processing the 11,000 objected petitions will cost \$1.782 million over two fiscal years.

$$11,000 \text{ Simple Cases} \quad \times \quad \$162 \text{ Per Case} \quad = \$1,782,000$$

Given the limited term nature of the petition workload created by AB 1793, courts indicated they would likely use the additional resources provided by this request for clerk overtime or temporary help to process the petitions; depending on what is permitted by the courts labor agreement(s).

E. Outcomes and Accountability

Because sentence modifications are required by the statute they will have to occur. However, due to the potential complexities associated the DOJ identifying and the prosecutors determining whether they will object to resentencing, we are not certain over what period of time the estimated approximately 220,000 petitions will be submitted. Although prosecutors are required to file all their objections to resentencing by July 1, 2020, it is possible that some unchallenged and objected petitions will be filed by prosecutors after this deadline. We note that a court will resentence an individual under the provisions of AB 1793 only if a petition has been filed with the court. Finally, as the law requires notification by the trial courts to the DOJ of sentence modifications, the number of modifications will be tracked.

F. Analysis of All Feasible Alternatives

Alternative 1: Status Quo-Do not provide General Fund Resources.

Pros:

- Requires no commitment of General Fund resources.

Cons:

- Will result in additional backlogs in court services as resources must be redirected to address the required provisions of AB 1793.

Alternative 2: Approve a General Fund augmentation of \$6.951 million in FY 2019-20 and \$1.464 million in 2020-21 or 50% of the resources required to comply with AB 1793,

Analysis of Problem

Pros:

- Requires a lesser commitment of General Fund resources.
- Will provide the trial courts with a portion of the resources necessary to successfully implement provisions of this newly enacted law.
- Will enable the trial courts to address this workload without redirecting all of the resources necessary to comply with AB 1793 from current trial courts operational needs.

Cons:

- Requires one-time commitment of some General Fund resources.
- Will result in the result in additional backlogs in court services as resources must be redirected to address the unfunded portion of the required provisions of AB 1793.

Alternative 3: Approve a General Fund augmentation of \$13.901 million in FY 2019-20 and \$2.929 million in 2020-21 to fund the cost of implementation of AB 1793.

Pros:

- Will provide the trial courts with resources necessary to successfully implement provisions of this newly enacted law.
- Will enable the trial courts to address this workload without redirecting resources from current trial courts operational needs.

Cons:

Requires one-time commitment of General Fund resources.

G. Implementation Plan

July 2018 to Spring 2019: The DOJ identifies and extracts data from their systems on the cases that are eligible for conviction reductions under Prop 64.

Spring 2019: DOJ provides data on individuals eligible for conviction reductions to county District Attorneys (DA's)

Spring 2019-June 2020: DA's perform an initial review to identify low-level cases where they will not challenge conviction reductions (i.e. one-time simple possession cases) and file petitions with the courts. This approach leaves DA's with additional time to review the complex cases (i.e. multiple cases for one offender, cases involving multiple counties) until the July 2020 deadline.

Late Spring 2019-ongoing: Trial courts review the petitions as they are filed.

H. Supplemental Information

Please see attached workload assumption and timelines.

I. Recommendation

The Judicial Council recommends Alternative 3, a General Fund augmentation of \$13.901 million in 2019-20 and \$2.929 million in 2020-21 to support costs associated with increased workload for the trial courts as a result of the enactment of Chapter 993, Statutes of 2018 (AB 1793). This funding will provide the trial courts with the resources required to successfully implement the provisions of the statute.

BCP Fiscal Detail Sheet

BCP Title: Chapter 993, Statutes of 2018 (AB 1793)-Cannabis Convictions: Resentencing

BR Name: 0250-116-BCP-2018-GB

Budget Request Summary

FY19					
CY	BY	BY+1	BY+2	BY+3	BY+4
0	13,901	2,929	0	0	0
\$0	\$13,901	\$2,929	\$0	\$0	\$0
\$0	\$13,901	\$2,929	\$0	\$0	\$0

Fund Summary

Fund Source - State Operations

Total State Operations Expenditures

Fund Source - Local Assistance

0001 - General Fund

Total Local Assistance Expenditures

Total All Funds

	\$0	\$0	\$0	\$0	\$0	\$0
	0	13,901	2,929	0	0	0
	\$0	\$13,901	\$2,929	\$0	\$0	\$0
	\$0	\$13,901	\$2,929	\$0	\$0	\$0

Program Summary

Program Funding

0150010 - Support for Operation of Trial Courts

Total All Programs

	0	13,901	2,929	0	0	0
	\$0	\$13,901	\$2,929	\$0	\$0	\$0